

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

**JILL DILLARD; JESSA SEEWALD;
JINGER VUOLO; and JOY DUGGAR**

PLAINTIFFS

V. CASE NO. 5:17-CV-5089

**CITY OF SPRINGDALE, ARKANSAS;
WASHINGTON COUNTY, ARKANSAS;
KATHY O'KELLEY, in her individual and
official capacities; ERNEST CATE, in his
individual and official capacities; RICK HOYT,
in his individual and official capacities;
and DOES 1-10, inclusive**

DEFENDANTS

ORDER

All Defendants jointly move for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c).¹ See Doc. 134. The timing of this motion is unusual in that it was filed more than a year after Defendants submitted their respective Answers (Docs. 90 & 91). The motion is also unusual because the Court denied Defendants' Rule 12(b)(6) motions several years ago, in September of 2017. See Doc. 62. The Court therefore views the instant motion as one for reconsideration of the Order denying Defendants' motions to dismiss. See *id.*

Rule 60(b) explains that a court may relieve a party from a court order for a number of reasons, including mistake, inadvertence, surprise, newly discovered evidence, or "any other reason that justifies relief." Here, Defendants argue that the Court should reverse its 2017 ruling on their Rule 12(b)(6) motions because the Arkansas Court of Appeals recently affirmed a state trial court's dismissal of tort claims brought by Plaintiffs' brother,

¹ Defendants incorrectly cite to Rule 12(b)(6).

Joshua Duggar, against the City of Springdale and Washington County, Arkansas. See *Duggar v. City of Springdale*, 599 S.W.3d 672 (Ark. Ct. App. 2020). It appears Mr. Duggar filed his state court case after this Court dismissed his federal case in 2017. See Order of Dismissal, Doc. 70, *Duggar v. City of Springdale*, Case No. 5:17-CV-5125 (W.D. Ark. 2017). Since his federal claims were dismissed without prejudice, he was free to refile those same claims in state court. It appears he did that, and the claims were once again dismissed.

The state-court dismissal of Mr. Duggar's case has no bearing on this case. Plaintiffs and Mr. Duggar are siblings, but Plaintiffs' allegations against the City of Springdale and Washington County are factually dissimilar to their brother's allegations. Plaintiffs were Mr. Duggar's *victims*. The Court previously explained why Plaintiffs' claims survived dismissal and Mr. Duggar's did not. See *id.* at pp. 10–13.

IT IS THEREFORE ORDERED that Defendants' Motion for Judgment on the Pleadings (Doc. 134) is **DENIED**.

IT IS SO ORDERED on this 4th day of November, 2021.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE